

**MINUTES
of the
FOURTH MEETING
of the
LEGISLATIVE STRUCTURE AND PROCESS STUDY TASK FORCE**

**May 3-4, 2007
Room 307, State Capitol
Santa Fe**

The fourth meeting of the Legislative Structure and Process Study Task Force was called to order by Richard E. Olson, co-chair, at 10:30 a.m. in Room 307 of the State Capitol in Santa Fe.

Present

Thomas A. Donnelly, Co-Chair
Richard E. Olson, Co-Chair
Rep. Janice E. Arnold-Jones
Rep. Ray Begaye
Max Coll
Linda M. Davis
Marie Eaves (May 3)
William H. Humphries
Tommy Jewell
Judy K. Jones (May 3)
Rep. Larry A. Larrañaga
Willard Lewis
Sen. Gerald Ortiz y Pino
Sen. Nancy Rodriguez
Anthony Williams
Rep. Peter Wirth (May 4)

Absent

Sen. Mark Boitano
Charles Dorame
David McCumber
Brian McDonald
Sen. Cynthia Nava
Sen. Steven P. Neville
Sen. William H. Payne
Murray Ryan
Rep. Henry Kiki Saavedra
Rep. Thomas C. Taylor

Advisory Members

Rep. Al Park (May 3)
Kim Seckler (May 3)

Rep. Donald E. Bratton
Sen. Stuart Ingle
Marilyn O'Leary

(Attendance dates for members attending part of the meeting are shown in parentheses.)

Staff

Raúl E. Burciaga, Assistant Director for Drafting Services, Legislative Council Service (LCS)
Ric Gaudet, LCS
John Yaeger, Assistant Director for Legislative Affairs, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of handouts given by meeting presenters are in the meeting file.

Thursday, May 3

Co-Chair Remarks

Thomas A. Donnelly, co-chair, reported to the task force about his presentation to the Legislative Council on January 15, 2007. He outlined some of the subject areas for reform, including bill introduction limits, separate legislative versus calendar days, consolidation of interim committees and requiring a certain minimum time spent at interim committees in order to receive per diem. He reminded the council that the task force was not yet ready to make any recommendations. Representative Janice E. Arnold-Jones asked whether there was consensus on any topic. Mr. Donnelly responded that there was no such consensus on any topic.

Recap of 2006 Work and Proposed 2007 Work Plan

John Yaeger reviewed the New Mexico First report to the task force, which was presented at the December 2006 meeting, and then described how he and the co-chairs organized the reform topics into a work plan for 2007.

Mr. Olson wondered whether the proposed town hall meetings would be useful, since he was not sure anyone would come. Representative Arnold-Jones said that there is an important educational value of town hall meetings.

Max Coll said that the legislative leadership needs to be involved now with the task force; if not, he sees little chance of any reform being adopted. Senator Gerald Ortiz y Pino agreed and also wondered if there was an actual need for an extraordinary session of the legislature, since many of the reforms could be addressed by legislative rules changes. Anthony Williams added that the task force should focus on convincing leadership of the value of the reforms, rather than focusing on the public, since the public generally does not care about the kind of structural reform the task force is considering.

The task force directed LCS staff to write a letter to the Legislative Council inviting its members to attend task force meetings and to start considering some of its proposals.

Meeting dates for the 2007 interim were set as follows:

May 17-18	Session Time
June 14-15	Interim Structure
July 19-20	Legislative-Executive Relations
	Member Relations
August 16-17	Public Information
	Constituent Relations

The minutes for the December 7, 2006 meeting of the task force were approved.

Session Volume Background

Raúl Burciaga talked about session volume and duplicate legislation. He noted the substantial increase in the number of bills introduced each session since 1999. He also talked about the huge increase in duplicate legislation being introduced and the increase in the number of committee referrals of bills.

The legislature amended Joint Rule 10-1 during the 2007 regular session to essentially allow only one introduction of an interim-committee-sponsored or an executive-requested bill, resolution or memorial. A new Joint Rule 11-1 was also adopted that allows senators and representatives to co-sponsor bills introduced in the other chamber.

Representative Arnold-Jones asked what would happen if the executive wants duplicate bill introductions. Mr. Yaeger said that individual legislators can still request duplicates of other bills. She then asked how the rule would affect confidentiality provisions. Mr. Yaeger responded that generally, interim committee bills are publicly available long before they are introduced.

Mr. Olson asked why legislators introduce duplicate bills. Mr. Burciaga said that interest groups often find two sponsors for a bill, in order to increase the chances of its passage. Representative Begaye said that he has concerns about House bills being stalled in the Senate. He said there needs to be changes in the committee system before he would support a ban on duplicate introductions. He did say that he liked the idea of limiting the number of bills a legislator can introduce, however.

Mr. Olson asked whether members of the same house can co-sponsor a bill after it has been introduced. Mr. Burciaga said that as it was adopted, only members of the other chamber can co-sponsor a bill after introduction.

Senator Ortiz y Pino predicted a drastic reduction in duplicate bill introductions if legislators are limited in how many bills they can introduce.

Mr. Olson asked how the increase in duplicate legislation has affected workload. Mr. Burciaga said that duplicates do not affect the LCS too much, but that legislators and committee staff have found themselves with a much greater burden, because they are forced to track many more bills and monitor progress of similar bills to avoid conflicting amendments. There is a further problem in which so-called duplicates are no longer the same by the time they reach the governor's desk. Mr. Yaeger said that one benefit of duplicate bills has been that sometimes they can alleviate the end-of-session logjam if one house can quickly vote on a bill if that house has already debated and voted on something identical.

Tommy Jewell asked how bills are identified as being duplicate. Mr. Burciaga responded that although there is no official designation as a duplicate bill, the LCS tracks interim

committee bills that have dual introductions and also tracks bills that are requested to be duplicates of something else.

Mr. Williams asked about the 20-year trend in growth of appropriations bills. Mr. Burciaga said that the last three to four years has seen the largest increase in appropriations, probably due to the recent increase in state revenue. Mr. Williams said there needs to be a way to reign in all the appropriations requests, so that they can be more manageable.

Senator Ortiz y Pino said that the increase in appropriations bills does not really increase the workload of legislators very much, because those bills really do not get much of a hearing.

Judy Jones asked, based on the National Conference of State Legislatures (NCSL) survey done last year, what legislators thought was the biggest problem regarding session workload. Mr. Burciaga said that committee referrals was one of the major problems identified, as was the number of introduced bills. Ms. Jones said that the task force needs to be mindful of what legislators actually see as problems.

Representative Larry A. Larrañaga said that the House Appropriations and Finance Committee (HAFC) splits up into three subcommittees to review all the requests, and that last session, the committee reviewed nearly 1,000 program requests. He said the process is getting overwhelming. He mentioned that legislators do, however, get a certain amount each session to allot toward whatever program they choose.

Representative Arnold-Jones said that some appropriation requests do not fit neatly into one budget category, which means the Legislative Finance Committee (LFC) will not even hear the request and, as a result, that request will never make it into HB 2.

Representative Begaye said that appropriations requests should only be heard in HAFC or the Senate Finance Committee (SFC).

Mr. Coll said that unless committees say no to a bill early, workload problems will continue. He advocated that committees use Do Not Pass (DNP) reports to kill bad bills. He also favors bill introduction limits.

Mr. Williams said that the legislature spends too much time dealing with small, local projects. There needs to be a different forum for such projects.

Senator Ortiz y Pino suggested that the LFC could establish a dollar amount available for certain interim committees to budget. The Legislative Health and Human Services Committee, for example, could then hear all its program requests during the interim, prioritize them and submit one package of appropriations back to LFC for inclusion in HB 2.

Mr. Donnelly asked staff for the total printing cost for the past legislative session.

The task force recessed for lunch until 1:30 p.m.

Task Force Discussion and Consideration of Potential Reforms

Prefiling Legislation

Mr. Donnelly asked whether prefiling legislation in other states has actually expedited the legislative process. Mr. Yaeger said that he would have to research that question and report back to the task force at its next meeting. He said that in New Mexico, in the House and to a lesser extent in the Senate, the tendency is to hear bills in the order that they are introduced. He said that prefiling of bills could lead to earlier committee hearings, but generally probably not before the session actually started, because bill referrals and committee chairs and membership do not get determined until the session actually begins. Mr. Yaeger also said that both the House and Senate have prefiling rules, but that the new Senate version is much broader in scope.

Mr. Coll asked how it would be possible to get co-sponsors for prefiled bills, since most co-sponsoring occurs during floor sessions. Mr. Yaeger said that Joint Rule 11-1 could be amended to allow co-sponsorship of bills in the same chamber. Otherwise, members could go to the chief clerk's office before the session begins and sign the prefiled bill.

Mr. Williams suggested that if the legislature starts using prefiling, it should also shorten the bill introduction period. Mr. Yaeger noted that New Mexico has the longest bill introduction period of any state legislature, which is one-half of the entire session length.

Marie Eaves said that the only way to get bills to be prefiled is to promise legislators that their bills will be processed quickly.

Mr. Coll suggested that prefiling begin as soon as possible after November elections, that there be no limit to prefiled bills, that legislators be limited to eight or ten bills to be introduced during the session and that interim committee bills be exempt from the limit. The topic of bill introduction limits continued a short time later.

Senator Ortiz y Pino said that input from the chief clerks is necessary if prefiling is going to work. He also said that prefiling could allow committees to get to work on bills the second day of session, instead of the usual one week lag time.

Representative Larrañaga said that unless leadership buys in to the prefiling idea, it will not work.

Mr. Coll asked for information about the mechanics of other states' prefiling processes.

Willard Lewis said that prefiling, coupled with bill introduction limits, would enforce discipline on interest groups to get their bills in early.

Senator Nancy Rodriguez wondered what should be done about dummy bills. Mr. Yaeger said that dummy bills could be exempt from the limit. Representative Larrañaga said that there is a reason they are called "dummy" bills and that they should be eliminated completely. Mr. Coll said that at a minimum, fewer dummy bills should be introduced and some time limit should be imposed on when they can be used.

Mr. Olson asked about what incentives other states have to encourage prefiling bills.

Bill Introduction Limits

Mr. Yaeger reviewed an NCSL report about other states' bill introduction limits and some arguments for and against those limitations. He then identified several issues for the task force to discuss in regard to bill introduction limits. Besides coming up with an actual number to which members would be limited, there are several possible exceptions to that limit, including: extra leadership allowance; interim committee bills; appropriations bills; large-district extra allowance; and no limit to prefiled bills. Other issues to consider include 30-day versus 60-day session limits, limits for House and Senate members and whether to include in the limitation other forms of legislation, like memorials and resolutions.

Representative Larrañaga said that memorials directing agencies to act should be restricted. Mr. Coll said that committee chairs should instead write letters to the agency. The result would probably be the same as if a memorial were passed, especially a simple memorial. Senator Ortiz y Pino said that he thinks memorials should be included in the introduction limitation, which would result in a decrease in both duplicate and agency-directive memorials.

William R. Humphries said that the legislature still needs the ability to express its intent to other bodies, especially to federal agencies.

Senator Rodriguez said that although she thinks some limitation on bill introductions is a good idea, she does not want to cut off her constituents' priorities. Mr. Olson suggested that there be no limitation of prefiled legislation, but that once the session started, limits be put in place.

Mr. Williams said that if there is unlimited prefiling, appropriations bills should be included in the session introduction limits. That would take care of the endless program requests and would solve the problem of large-district limit fairness. It would also enforce better planning.

Mr. Humphries said he was also in favor of shortening the bill introduction period, in conjunction with prefiling and bill introduction limits. He also said that leadership needs to be shown that these reforms are in its interest.

Ms. Eaves said that if the legislature improves its discipline, the executive needs to as well. Mr. Coll said that the legislature cannot tell the executive when it has to introduce bills, but it could count agency bills against a member's limit if that bill is introduced during the

session. Mr. Humphries said that an added benefit to that idea would be the effect of improving the balance of power between the legislature and the executive.

Representative Larrañaga said that the Senate and House prefiling rules need to be the same in order for these reforms to work.

The task force directed staff to prepare legislation that would contain introduction limits for House and Senate members for 60-day and 30-day sessions and that would contain exceptions for interim-committee endorsed legislation and unlimited prefiling of legislation. There would be no exceptions for session-introduced legislation for appropriations or executive agencies. The task force also recommended that these rules be individual House and Senate rules, so they could be suspended if needed.

Do Not Pass Reports

Mr. Coll said one way to get committees to kill bills early would be to allow the second or third committee to re-refer them back to the first committee. He also said that tabling of bills is the most common way to kill bills.

Representative Arnold-Jones said that many bills are "temporarily tabled", which makes no sense, because tabling is by definition a temporary action. In reality, however, tabling kills bills and temporarily tabling does not. Senator Rodriguez said that SFC temporarily tables all appropriations bills until the committee knows how much funding is available.

Mr. Coll said that committees should not send junk bills to HAFC or SFC to be killed; they should be killed in the first committee.

Mr. Olson said that the legislature could limit, except for the finance committees, the amount of time a bill can remain tabled.

Senator Ortiz y Pino said that Do Pass w/out Recommendation reports are a real abuse of the system and a waste of time.

Mr. Williams said that tabling of bills really deceives constituents because they believe their bills are still alive.

Kim Seckler suggested a rule be drafted that after five calendar days (or perhaps five meeting dates of a committee) of a bill being tabled, a DNP committee report be generated and sent to the floor for action. Exceptions would be made for both finance committees. The task force directed staff to develop such a rule.

Having made preliminary recommendations that would make the legislature's work in the future more effective, the task force recessed at 4:00 p.m.

Friday, May 4

The task force reconvened at 9:15 a.m. in Room 307 of the State Capitol.

Continued Discussion and Consideration of Potential Reforms

Joint Sponsorship of Legislation

Stephen R. Arias, chief clerk of the House, and Lenore Naranjo, deputy chief clerk of the Senate, spent the morning with the task force discussing implementation of House Concurrent Resolution 2, which prohibits certain types of duplicate legislation and allows for joint House-Senate sponsors of bills. Mr. Arias described what the chief clerks and LCS envisioned to implement these rule changes. When a House bill is introduced with a senator's co-sponsorship, they will both be listed as primary sponsors, but the representative's name will be listed first. For example, a bill jointly introduced by Representative W. Ken Martinez and Senator Michael S. Sanchez would be listed as "HB___, introduced by W. Ken Martinez/Michael S. Sanchez".

Mr. Arias also talked about duplicate legislation prohibitions and some potential problems that may be encountered, including how to determine what actually is a duplicate, and how to avoid confidentiality conflicts.

Senator Rodriguez asked how conflicting bills are dealt with during the session. She said that last year the Governor's Office asked her to make minor changes to her bill to make it identical to a House bill.

Mr. Arias said that House committee analysts do figure out which bills are duplicates. Mr. Burciaga said that the LCS does also, and it produces a "Conflicts" list, which reports every section of existing law that is amended and those bills that may be in conflict with each other. He said that difficulty arises when bills are mostly identical but have slight differences.

Mr. Williams said that the burden of resolving conflicting or near-duplicate bill problems should not be placed wholly on staff. There should be a process in which just one bill proceeds, and all the other duplicates or near-duplicates are killed.

Representative Peter Wirth clarified that the new rule on duplicates only applies to agency and interim committee bills and not to duplicates requested by a legislator.

Senator Ortiz y Pino said that duplicate legislation will probably mostly disappear if bill introduction limits are imposed.

Mr. Arias said that memorials are being duplicated at an alarming rate also. He also said that the big problem with getting a bill introduction limit imposed in the past has been that rural districts tend to need more bills because of the diversity of the population and many governmental entities needing something. Mr. Coll said that allowing unlimited prefilings would take care of that problem.

Mr. Arias said that although the House has had a prefiling rule on the books for years, it was only used one year and then abandoned. He recalls that prefiling gave opponents of certain bills time to organize their opposition. However, he also said that prefiling could increase the discourse of bills, which is important.

Mr. Williams said that there needs to be a mechanism to give credit to legislators but not have every legislator sponsor a bill for every program out there.

Representative Wirth said that lobbyists believe it is very important to have duplicate bills, in order to increase the likelihood of their passage.

Representative Arnold-Jones suggested that, in addition to co-sponsoring bills, which today essentially means very little, except for credit, the legislature should allow actual dual sponsorship, in which each sponsor does the necessary work to get the bill passed. That would mean that there could be more than one primary sponsor of a bill.

Mr. Olson asked if there are any logistical issues that need to be resolved regarding prefiling. Mr. Arias and Ms. Naranjo replied that there were none. Mr. Olson asked that if there were more use of prefiling, would there be sufficient time for bill analysis? Mr. Arias replied that bill analysts would need to be hired one month early. Mr. Arias also said that it may not be clear where bills actually will be referred once the legislature convenes, and in the House, that responsibility lies exclusively with the speaker.

Mr. Lewis said that agencies would need to get their fiscal impact reports done earlier also.

Mr. Williams said that prefiling, coupled with bill introduction limits and a shorter introduction period, will make everyone get their work done earlier and will negate the need to adopt a stricter rule against duplicate legislation.

Senator Ortiz y Pino said that separating calendar days from legislative days could also reduce the burden of hiring session staff early. Mr. Coll said that extended sessions would also disable one person from filibustering at the end of session. He requested staff to review the *Dillon* case, in which the New Mexico Supreme Court cautioned the legislature against separating legislative days from calendar days.

Representative Larrañaga said that he supports unlimited prefiling of legislation, a bill introduction limit and a shortened introduction period. He is possibly in favor of restricting the use of memorials, as well.

Mr. Lewis asked if the House would have any problem expanding its prefiling rule to be more like the Senate's. Mr. Arias said that he has no problem with it, but that decision needs to be made by the members of the House, not by him. He said that prefiling and bill introduction limits could reduce printing costs, which he estimated for the recent session to be \$1 million for

the House and Senate and the three legislative agencies. He also said that the House no longer has enough room for its staff.

Representative Larrañaga asked that the chief clerks' offices research other chief clerks' prefiling methods. Mr. Arias said that the National Chief Clerks Association will discuss that topic at its annual meeting this year.

The task force directed LCS staff to develop legislation to make the House and Senate prefiling rules essentially the same. The task force also directed staff to develop a procedure to educate session staff and legislators about joint sponsorship of legislation.

Staff Recruitment and Training

Mr. Arias described the development over the past 10 years in the House of its training programs for session staff. He says that in the past, there would be very few returning employees to work another session. Now, with employee training and attempts at addressing job-satisfaction issues, the House retains between 35-40 percent of employees from year to year. But the main problem with employees returning each year, he said, is pay. House and Senate employees do not get overtime, even though they may end up working extraordinary hours. Permanent employees get some compensatory time, but not nearly equal to the time they actually worked.

Representative Begaye added that it is not just staff who are being deprived of fair compensation. He said that although the legislature was in session for 11 days during the most recent special session, members were only paid for six days. He said he spent \$2,800 on living expenses during that time, but only received \$1,075 as per diem.

Mr. Williams asked if state legislatures are exempt from the provisions of the federal Fair Labor Standards Act. Mr. Yaeger replied that generally, they are exempt, but that there is a provision covering legislative librarians in that act.

Mr. Coll recommended that the legislature adopt federal guidelines on pay. Representative Wirth supported the idea also, but asked that the task force delay its decision until a fiscal impact for that change could be established. The task force directed staff to bring that information to its next meeting, as well as information about what other states do.

There being no further business, the task force adjourned at 12:00 noon.

- 10 -